

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KEVIN DAVIS,

Plaintiff,

v.

JOHN WETZEL, *et al.*,

Defendants.

No. 3:20-CV-01106

(Chief Judge Brann)

(Chief Magistrate Judge Mehalchick)

ORDER

OCTOBER 19, 2021

Kevin Davis filed this 42 U.S.C. § 1983 civil rights complaint alleging that numerous individuals violated his civil rights by retaliating against him for filing a complaint against prison officials, and by withholding necessary medical treatment.¹ On September 18, 2021, Chief Magistrate Judge Karoline Mehalchick issued a Report and Recommendation recommending that this Court grant in part and deny in part the pending motions to dismiss, and grant Davis' motion to supplement his complaint.² No timely objections were filed to this Report and Recommendation.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.³ Regardless of whether objections

¹ Docs. 1, 20.

² Doc. 35.

³ Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge.⁴ Upon review of the record, the Court finds no error in Chief Magistrate Judge Mehalchick’s conclusion that certain defendants should be dismissed from the complaint. Consequently, **IT IS HEREBY ORDERED** that:

1. Chief Magistrate Judge Karoline Mehalchick’s Report and Recommendation (Doc. 35) is **ADOPTED**;
2. Davis’ motion to supplement his complaint (Doc. 19) is **GRANTED**;
3. Defendants’ motions to dismiss (Docs. 16, 30) are **GRANTED** in part as follows:
 - A. Defendants John Wetzel, John Steinhart, Paul Noel, Rich Wenhold, Joseph Silva, Nedra Grego, Jay Cowan, N. Ranker, and Correct Care Solutions are **DISMISSED** without prejudice;
 - B. Claims related to the resolution of any grievances against Defendant Tammy Ferguson are **DISMISSED** with prejudice.
4. Davis shall file an amended complaint on or before Thursday, November 18, 2021 that addresses the deficiencies outlined in Chief Magistrate Judge Mehalchick’s Report and Recommendation; and

⁴ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

5. This matter is **REMANDED** to Chief Magistrate Judge Mehalchick for further proceedings.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge